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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 AMERICAN ECONOMY INSURANCE
12 COMPANY, an Indiana corporation,

13 Plaintiff,

14 vs.

15 NICEFORO HERRERA, individually and
16 doing business as Acapulco's Produce
Market; MALNICK PROPERTIES LLC, a
Connecticut corporation; LUIS BENITEZ;
and JOHANNA BENITEZ, by and through
her guardian at litem, Luis Benitez,

17 Defendants.
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CASE NO. 06cv2395 WQH (NLS)

ORDER

HAYES, Judge:

19 On August 21, 2007, A. Jason Kerckhoff and Kerckhoff Law, APC filed a Motion to
20 Withdraw as Counsel of Record for Defendants Luis Benitez, individually, and Johanna Benitez,
21 by and through her guardian ad litem, Luis Benitez ("Defendants"). (Doc. # 37). According to the
22 Declaration of A. Jason Kerckhoff, A. Jason Kerckhoff and Kerckhoff Law, APC moved to
23 withdraw because Defendants have failed to cooperate in providing documents and information
24 necessary for their representation, Defendants have failed to keep counsel advised as to their
25 whereabouts, making further contact impossible, and counsel has determined there is little
26 likelihood that Defendants will prevail in contesting the insurance coverage issues presented in the
27 action, such that the cost and expense of such defense is unjustified.

28 An attorney may not withdraw as counsel except by leave of court. *Darby v. City of*

1 *Torrance*, 810 F.Supp. 275, 276 (C.D. Cal. 1992). “The decision to grant or deny counsel’s
2 motion to withdraw is committed to the discretion of the trial court.” *Irwin v. Mascott*, 2004 U.S.
3 Dist. LEXIS 28264 (N.D. Cal. December 1, 2004), *citing Washington v. Sherwin Real Estate, Inc.*,
4 694 F.2d 1081, 1087 (7th Cir. 1982). Among other things, courts ruling upon motions to withdraw
5 as counsel have considered,

6 (1) the reasons why withdrawal is sought; (2) the prejudice withdrawal may cause
7 to other litigants; (3) the harm withdrawal might cause to the administration of
justice; and (4) the degree to which withdrawal will delay the resolution of the case.

8 *Irwin*, 2004 U.S. Dist. LEXIS 28264 at 4.

9 After reviewing the record and the reasons for withdrawal noted by Attorney A. Jason
10 Kerckhoff, the Court concludes that there is good cause to grant A. Jason Kerckhoff and Kerckhoff
11 Law, APC’s Motion to Withdraw as Counsel. The Court further concludes that the withdrawal
12 will not prejudice justice or unduly delay resolution of the case.

13 IT IS HEREBY ORDERED that the Motion to Withdraw as Counsel of Record (Doc. #
14 37), filed by A. Jason Kerckhoff and Kerckhoff Law, APC, is **GRANTED**.

15 IT IS FURTHER ORDERED that Defendants Luis Benitez, individually, and Johanna
16 Benitez, by and through her guardian ad litem, Luis Benitez have forty-five (45) days to obtain
17 new counsel. If Defendants do not respond to this Order by Friday December 21, 2007, the Court
18 will deem Defendants as proceeding pro se.

19 The Court directs the Clerk of the Court to serve a copy of this Order on Defendants Luis
20 Benitez, individually, and Johanna Benitez, by and through her guardian ad litem, Luis Benitez by
21 mail at the following address:

22 3342 Imperial Avenue
23 San Diego, CA 92102

24 DATED: November 5, 2007

25 
26 **WILLIAM Q. HAYES**
27 United States District Judge
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